

ESTTA Tracking number: **ESTTA574665**

Filing date: **12/04/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Humane America Animal Foundation dba Adopt-a-Pet.com
Granted to Date of previous extension	12/04/2013
Address	310 N. Indian Hill Blvd., Suite 800 Claremont, CA 91711 UNITED STATES
Attorney information	Susan Hwang Sheppard, Mullin, Richter & Hampton LLP 333 South Hope Street, 43rd Floor Los Angeles, CA 90071 UNITED STATES shwang@sheppardmullin.com, ekomen@sheppardmullin.com Phone:213-620-1780

Applicant Information

Application No	85878857	Publication date	08/06/2013
Opposition Filing Date	12/04/2013	Opposition Period Ends	12/04/2013
Applicant	KLL Dolls LLC jmlocker@lockerlaw.com New York, NY 10120 NY		

Goods/Services Affected by Opposition


Class 028. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Dolls and accessories therefor


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	86079013	Application Date	09/30/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ADOPT A PET .COM		

Design Mark	
Description of Mark	The mark consists of the words ADOPT A PET in stylized blue font with light blue edging and the word .COM in orange stylized font with light orange edging. The period in the .COM is depicted as a pawprint design.
Goods/Services	<p>Class 035. First use: First Use: 2008/08/00 First Use In Commerce: 2008/08/00 Promoting public awareness of pet care, animal adoption and pet rescue services; charitable services, namely, organizing and conducting volunteer programs and community service projects in connection with animal welfare</p> <p>Class 041. First use: First Use: 2008/08/00 First Use In Commerce: 2008/08/00 Educational information and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subject of pet rescue services; Educational and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subjects of obedience training for pets; Educational information and entertainment services in the nature of a web site featuring photographic, audio, video and text material on the subjects of breeding and selection of animals and pets, pet care, grooming, feeding and nutrition, and animal behavior; Educational information and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subjects of pet shelters and volunteering opportunities at animal shelters</p> <p>Class 043. First use: First Use: 2008/08/00 First Use In Commerce: 2008/08/00 Providing an on-line searchable database featuring animal shelters</p> <p>Class 045. First use: First Use: 2008/08/00 First Use In Commerce: 2008/08/00 Providing an on-line searchable database featuring animal adoption organizations and pets available for adoption</p>

U.S. Application No.	86079010	Application Date	09/30/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ADOPT-A-PET.COM		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 2008/08/00 First Use In Commerce: 2008/08/00 Promoting public awareness of pet care, animal adoption and pet rescue services; charitable services, namely, organizing and conducting volunteer programs and community service projects in connection with animal welfare</p>		

	<p>Class 041. First use: First Use: 2008/08/00 First Use In Commerce: 2008/08/00 Educational information and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subject of pet rescue services; Educational and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subjects of obedience training for pets; Educational information and entertainment services in the nature of a web site featuring photographic, audio, video and text materialson the subjects of breeding and selection of animals and pets, pet care, grooming, feeding and nutrition, and animal behavior; Educational information and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subjects of pet shelters and volunteering opportunities at animal shelters</p> <p>Class 043. First use: First Use: 2008/08/00 First Use In Commerce: 2008/08/00 Providing an on-line searchable database featuring animal shelters</p> <p>Class 045. First use: First Use: 2008/08/00 First Use In Commerce: 2008/08/00 Providing an on-line searchable database featuring animal adoption organizations and pets available for adoption</p>
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Attachments	<p>86079013#TMSN.jpeg(bytes)</p> <p>86079010#TMSN.jpeg(bytes)</p> <p>Adopt a Pet NotOfOpposition.pdf(199117 bytes)</p>
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Susan Hwang/
Name	Susan Hwang
Date	12/04/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Humane America Animal Foundation)	
dba Adopt-a-Pet.com)	Opposition No. _____
)	
Opposer,)	Serial No. 85/878,857
)	
v.)	Filed: March 18, 2013
)	
KLL Dolls LLC,)	Mark: ADOPT A PET
)	
Applicant.)	Published: August 6, 2013

NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Madam:

Opposer, Humane America Animal Foundation dba Adopt-a-Pet.com, a non-profit corporation organized and existing under the laws of the State of California, having a place of business at 310 N. Indian Hill Blvd., Suite 800, Claremont, California 91711 ("Adopt-a-Pet.com"), believes that it will be damaged by registration of the mark ADOPT A PET in International Class 28 for "Dolls and accessories therefor," shown in application Serial No. 85/878,857, filed March 18, 2013 by Applicant, KLL Dolls LLC DBA Alexander Doll Company ("KLL Dolls"), a limited liability company organized and existing under the laws of the State of New

York, having an address at 112 West 34th Street, Suite 1207, New York, New York 10120 ("KLL Dolls"), and hereby opposes the same.

As grounds for opposition, Opposer Adopt-a-Pet.com alleges that:

1. Opposer Adopt-a-Pet.com is engaged, among other things, in the business of providing pet adoption, adoption promotion and educational services under its mark ADOPT-A-PET.COM.

2. Opposer Adopt-a-Pet.com is the owner of pending U.S. Serial Application No. 86/079,010 for the mark ADOPT-A-PET.COM, filed on September 30, 2013 in connection with "Promoting public awareness of pet care, animal adoption and pet rescue services; charitable services, namely, organizing and conducting volunteer programs and community service projects in connection with animal welfare" in International Class 35, "Educational information and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subject of pet rescue services; Educational and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subjects of obedience training for pets; Educational information and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subjects of breeding and selection of animals and pets, pet care, grooming, feeding and nutrition, and animal behavior; Educational information and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subjects of pet shelters and volunteering opportunities at animal shelters" in International Class 41, "Providing an on-line searchable database featuring animal shelters" in International

Class 43 and “Providing an on-line searchable database featuring animal adoption organizations and pets available for adoption” in International Class 45.

3. Opposer Adopt-a-Pet.com is the owner of pending U.S. Serial Application No. 86/079,013 for the mark ADOPT APET.COM & Design, filed on September 30, 2013 in connection with “Promoting public awareness of pet care, animal adoption and pet rescue services; charitable services, namely, organizing and conducting volunteer programs and community service projects in connection with animal welfare” in International Class 35, “Educational information and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subject of pet rescue services; Educational and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subjects of obedience training for pets; Educational information and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subjects of breeding and selection of animals and pets, pet care, grooming, feeding and nutrition, and animal behavior; Educational information and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subjects of pet shelters and volunteering opportunities at animal shelters” in International Class 41, “Providing an on-line searchable database featuring animal shelters” in International Class 43 and “Providing an on-line searchable database featuring animal adoption organizations and pets available for adoption” in International Class 45.

4. Opposer Adopt-a-Pet.com has been using the ADOPT-A-PET.COM mark and the ADOPT A PET.COM & Design mark (collectively, ADOPT-

A-PET.COM Mark”) continuously in commerce, throughout the United States, as its service mark for the recited goods in International Classes 35, 41, 43 and 45 since at least as early as August 2008 and intends to continue so using the ADOPT-A-PET.COM Marks in the future. True and correct copies of Opposer Adopt-a-Pet.com’s ADOPT-A-PET.COM pending applications are attached hereto as **Exhibit A**. Opposer Adopt-a-Pet.com uses the ADOPT-A-PET.COM Marks on its website, in advertisements and promotional materials and by using it in other ways customary in the trade.

5. On March 18, 2013, Applicant KLL Dolls filed an application, Serial No. 85/878,857, with the U.S. Patent and Trademark Office to register ADOPT A PET in connection with “Dolls and accessories therefor” in International Class 28. The application asserted an intent-to-use filing basis.

6. Applicant KLL Dolls’ application Serial No. 85/878,857 was published for opposition on August 6, 2013.

7. Opposer Adopt-a-Pet.com, through the use of its ADOPT-A-PET.COM Marks, from a time prior to Applicant KLL Dolls’ filing of its application to register the mark ADOPT A PET, and by virtue of the quality of Opposer Adopt-a-Pet.com’s services, has built up a valuable goodwill and reputation in connection with its ADOPT-A-PET.COM Marks.

8. Opposer Adopt-a-Pet.com’s ADOPT-A-PET.COM Marks are distinctive and strong marks.

9. Applicant KLL Dolls' proposed mark ADOPT A PET is identical and/or highly similar in appearance, sound, connotation, and commercial impression to Opposer Adopt-a-Pet.com's ADOPT-A-PET.COM marks.

10. Applicant KLL Dolls' goods and Opposer Adopt-a-Pet.com's respective goods and services under their respective marks are similar and/or related in that they consist of goods and services that may emanate from a common source.

11. Opposer Adopt-a-Pet.com believes that it will be damaged by the registration of Applicant KLL Dolls' proposed mark ADOPT A PET and opposes application Serial No. 85/878,857 because Applicant KLL Dolls' registration and use of its proposed mark ADOPT A PET in connection with the goods set forth in application Serial No. 85/878,857 is likely to cause confusion, to cause mistake, and to deceive customers, potential customers and others, thereby injuring Opposer Adopt-a-Pet.com and the consuming public and jeopardizing the valuable goodwill and reputation Opposer Adopt-a-Pet.com has built up in connection with its ADOPT-A-PET.COM Marks.

12. Accordingly, for each and every reason stated above, Opposer Adopt-a-Pet.com believes that it will be damaged by the registration of Applicant KLL Dolls' ADOPT A PET mark and opposes application Serial No. 85/878,857.

WHEREFORE, Opposer Adopt-a-Pet.com prays that this opposition be sustained and that the registration of Applicant KLL Dolls' ADOPT A PET mark in application Serial No. 85/878,857 be refused. Opposer requests that the Board

charge Deposit Account No. 19-1853 for the filing fee of \$300 under 37 C.F.R.

§ 2.6(a)(17) and any additional fees as necessary.

December 4, 2013

Respectfully submitted,

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By: _____


EDWIN KOMEN
SUSAN HWANG

Attorneys for Opposer

HUMANE AMERICA ANIMAL FOUNDATION DBA

ADOPT-A-PET.COM

333 South Hope Street, 43rd Floor
Los Angeles, California 90071
Telephone: (213) 620-1780
Facsimile: (213) 620-1398

EXHIBIT A



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Adopt a Pet Com

Word Mark ADOPT A PET .COM**Goods and Services** IC 035. US 100 101 102. G & S: Promoting public awareness of pet care, animal adoption and pet rescue services; charitable services, namely, organizing and conducting volunteer programs and community service projects in connection with animal welfare. FIRST USE: 20080800. FIRST USE IN COMMERCE: 20080800

IC 041. US 100 101 107. G & S: Educational information and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subject of pet rescue services; Educational and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subjects of obedience training for pets; Educational information and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subjects of breeding and selection of animals and pets, pet care, grooming, feeding and nutrition, and animal behavior; Educational information and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subjects of pet shelters and volunteering opportunities at animal shelters. FIRST USE: 20080800. FIRST USE IN COMMERCE: 20080800

IC 043. US 100 101. G & S: Providing an on-line searchable database featuring animal shelters. FIRST USE: 20080800. FIRST USE IN COMMERCE: 20080800

IC 045. US 100 101. G & S: Providing an on-line searchable database featuring animal adoption organizations and pets available for adoption. FIRST USE: 20080800. FIRST USE IN COMMERCE: 20080800

Mark Drawing

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Code

Design Search Code 03.13.01 - Feet, animal; Foot prints, nonhuman; Paws and paw prints
27.03.03 - Animals forming letters or numerals

Serial Number 86079013

Filing Date September 30, 2013

Current Basis 1A

Original Filing Basis 1A

Owner (APPLICANT) Humane America Animal Foundation DBA Adopt-a-Pet.com non-profit corporation
CALIFORNIA 310 N. Indian Hill Blvd., Suite 800 Claremont CALIFORNIA 91711

Attorney of Record Susan Hwang

Description of Mark The color(s) blue, light blue, orange and light orange is/are claimed as a feature of the mark. The mark consists of the words ADOPT A PET in stylized blue font with light blue edging and the word .COM in orange stylized font with light orange edging. The period in the .COM is depicted as a paw print design.

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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ADOPT-A-PET.COM

Word Mark ADOPT-A-PET.COM**Goods and Services** IC 035. US 100 101 102. G & S: Promoting public awareness of pet care, animal adoption and pet rescue services; charitable services, namely, organizing and conducting volunteer programs and community service projects in connection with animal welfare. FIRST USE: 20080800. FIRST USE IN COMMERCE: 20080800

IC 041. US 100 101 107. G & S: Educational information and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subject of pet rescue services; Educational and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subjects of obedience training for pets; Educational information and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subjects of breeding and selection of animals and pets, pet care, grooming, feeding and nutrition, and animal behavior; Educational information and entertainment services in the nature of a web site featuring photographic, audio, video and text materials on the subjects of pet shelters and volunteering opportunities at animal shelters. FIRST USE: 20080800. FIRST USE IN COMMERCE: 20080800

IC 043. US 100 101. G & S: Providing an on-line searchable database featuring animal shelters. FIRST USE: 20080800. FIRST USE IN COMMERCE: 20080800

IC 045. US 100 101. G & S: Providing an on-line searchable database featuring animal adoption organizations and pets available for adoption. FIRST USE: 20080800. FIRST USE IN COMMERCE: 20080800

Standard Characters

Claimed**Mark****Drawing Code** (4) STANDARD CHARACTER MARK**Serial Number** 86079010**Filing Date** September 30, 2013**Current Basis** 1A**Original Filing Basis** 1A**Owner** (APPLICANT) Humane America Animal Foundation DBA Adopt-a-Pet.com non-profit corporation
CALIFORNIA 310 N. Indian Hill Blvd., Suite 800 Claremont CALIFORNIA 91711**Attorney of Record** Susan Hwang**Type of Mark** SERVICE MARK**Register** PRINCIPAL**Live/Dead Indicator** LIVE

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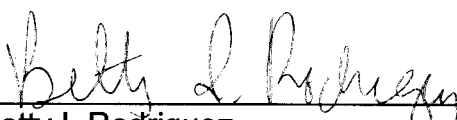
I hereby certify that this Notice of Opposition is being transmitted electronically through the ESTTA Filing System to the United States Patent and Trademark Office on this day, December 4, 2013.


Betty I. Rodriguez

CERTIFICATE OF SERVICE

I hereby certify that this Notice of Opposition is being deposited with the United States Postal Service, postage prepaid, first class mail, in an envelope addressed to counsel for applicant, on this day, December 4, 2013:

Jeffrey M Locker, Esq.
Locker Greenberg & Brainin PC
420 5th Ave
New York, NY 10018-2729


Betty I. Rodriguez